



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0566

Introduced 1/27/2005, by Rep. Kathleen A. Ryg

SYNOPSIS AS INTRODUCED:

770 ILCS 105/1	from Ch. 82, par. 351
770 ILCS 105/2	from Ch. 82, par. 352
770 ILCS 105/3	from Ch. 82, par. 353
770 ILCS 105/4.1 new	
770 ILCS 105/5	from Ch. 82, par. 355
770 ILCS 105/5.1 new	
770 ILCS 105/6	from Ch. 82, par. 356

Amends the Tool and Die Lien Act. Provides that a toolmaker has a lien on all special tools produced by it and on all proceeds from the assignment, sale, transfer, exchange, or other disposition of the special tool until the toolmaker is paid in full. Defines "toolmaker". Provides that an initial notice in writing shall be given to the customer and processor, either delivered personally or sent by registered mail to the last known address of the customer and the processor. Requires that the notice state that a lien is claimed in the amount set forth and include a demand for payment. Provides remedies for a toolmaker who is not paid for a special tool. Sets out second notice requirements that must be met before a toolmaker may sell a special tool.

LRB094 05756 LCB 35808 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Tool and Die Lien Act is amended by changing
5 Sections 1, 2, 3, 5, and 6 and by adding Sections 4.1 and 5.1 as
6 follows:

7 (770 ILCS 105/1) (from Ch. 82, par. 351)

8 Sec. 1. Lien.

9 (A) Plastic or metal processors or persons conducting a
10 plastic or metal processing business shall have a lien on the
11 tools, dies, molds, jigs, fixtures, forms or patterns in their
12 possession belonging to a customer, for the balance due them
13 from such customer for plastic or metal processing work, and
14 for all materials related to such work. The processor may
15 retain possession of the tool, die, mold, jig, fixture, form or
16 pattern until such balance is paid, subject only to a security
17 interest properly perfected pursuant to Article 9 of the
18 Uniform Commercial Code.

19 (B) A toolmaker has a lien on all special tools produced by
20 it and on all proceeds from the assignment, sale, transfer,
21 exchange, or other disposition of the special tool produced by
22 it until the toolmaker is paid in full all amounts due the
23 toolmaker for the production of the special tool. For the
24 purpose of this subsection:

25 (1) the lien attaches when the special tool is
26 delivered from the toolmaker to the customer;

27 (2) the amount of the lien is the amount that a
28 customer or processor owes the toolmaker for the
29 fabrication, repair, or modification of the special tool;
30 and

31 (3) the toolmaker retains the lien even if the
32 toolmaker is not a possession of the special tool for which

1 the lien is claimed.

2 (Source: P.A. 85-381.)

3 (770 ILCS 105/2) (from Ch. 82, par. 352)

4 Sec. 2. Definitions. For purposes of this Act:

5 (A) The term "processor" means any individual or entity
6 including, but not limited to, a tool or die maker, who
7 contracted with, or uses a tool, die, mold, jig, fixture, form
8 or pattern to manufacture, assemble, or otherwise make a
9 plastic or metal product or products for a customer.

10 (B) The term "customer" means any individual or entity who
11 contracted with, or caused a plastic or metal processor to use
12 a tool, die, mold, jig, fixture, form or pattern to
13 manufacture, assemble, or otherwise make plastic or metal
14 components or products.

15 (C) The term "special tool" means a tool, die, mold, jig,
16 fixture, form, ~~or~~ pattern, or part used to manufacture,
17 assemble, or otherwise make plastic or metal components or
18 products.

19 (D) The term "toolmaker" means a person including, but not
20 limited to, a mold builder, model maker, patternmaker, molder,
21 die maker, metal former, jig and fixture builder, die sinker,
22 die caster, mold designer, mold programmer, die designer, die
23 programmer, and mold or die engineer, that fabricates, cuts,
24 casts, forms, or designs molds for the plastic industry or dies
25 for the metal forming industry.

26 (Source: P.A. 85-381.)

27 (770 ILCS 105/3) (from Ch. 82, par. 353)

28 Sec. 3. Notice. Before enforcing a ~~such~~ lien as provided
29 for in subsection (A) of Section 1 of this Act, an initial
30 notice in writing shall be given to the customer, either
31 delivered personally or sent by registered mail to the last
32 known address of the customer. This notice shall state that a
33 lien is claimed in the amount therein set forth or thereto
34 attached for processing work contracted or performed for the

1 customer. This notice shall also include a demand for payment.

2 Before enforcing a lien as provided in subsection (B) of
3 Section 1 of this Act, an initial notice in writing shall be
4 given to the customer and processor, either delivered
5 personally or sent by registered mail to the last known address
6 of the customer and the processor. The notice shall state that
7 a lien is claimed in the amount set forth in or attached to the
8 notice for the fabrication, repair, or modification of the
9 special tool. The notice shall also include a demand for
10 payment.

11 (Source: P.A. 85-381.)

12 (770 ILCS 105/4.1 new)

13 Sec. 4.1. Possession of special tool. If the toolmaker has
14 not been paid the amount claimed in the notice within 90 days
15 after the initial notice is received by the customer and by the
16 processor, the toolmaker has a right to possession of the
17 special tool and may do the following:

18 (1) enforce the right to possession of the special tool
19 by judgement, foreclosure, or any available judicial
20 procedure;

21 (2) commence a civil action in circuit court to enforce
22 the lien, including by obtaining a judgment for the amount
23 owed and a judgment permitting the special tool to be sold
24 at an execution sale;

25 (3) take possession of the special tool, if possession
26 without judicial process can be done without breach of the
27 peace; and

28 (4) sell the special tool in a public auction.

29 A toolmaker that suffers damages under this Act may obtain
30 appropriate legal and equitable relief, including damages, in a
31 civil action. The court shall award the toolmaker that is the
32 prevailing party reasonable attorney's fees, court costs, and
33 expenses related to enforcement of the lien.

34 (770 ILCS 105/5) (from Ch. 82, par. 355)

1 Sec. 5. Second notice; publication; sale by processor.

2 (A) Before a processor may sell the die, mold or special
3 tool, the processor shall provide a second written notification
4 to the customer, by registered mail, return receipt requested.
5 The second notice shall include the following information:

6 (1) The processor's intention to sell the die, mold, or
7 special tool;

8 (2) A description of the die, mold, or special tool to be
9 sold;

10 (3) The time and place of the sale; and

11 (4) An itemized statement for the amount due.

12 (B) In addition to this notification by mail, the processor
13 shall publish in a newspaper of general circulation in the
14 place where the die, mold, or special tool is being held for
15 sale by the processor, notice of the processor's intention to
16 sell the die, mold, or special tool. The notice shall include a
17 description of the die, mold, or special tool and name of the
18 customer.

19 (Source: P.A. 85-381.)

20 (770 ILCS 105/5.1 new)

21 Sec. 5.1. Second notice; publication; sale by toolmaker.

22 (A) Before a toolmaker may sell the special tool, the
23 toolmaker shall provide a second written notification to the
24 customer and processor, by registered mail, return receipt
25 requested. The second notice shall include the following
26 information:

27 (1) the toolmaker's intention to sell the special tool;

28 (2) a description of the special tool to be sold;

29 (3) the time and place of the sale; and

30 (4) an itemized statement for the amount due.

31 (B) In addition to this notification by mail, the toolmaker
32 shall publish in a newspaper of general circulation in the
33 place where the special tool is being held for sale by the
34 toolmaker, notice of the toolmaker's intention to sell the
35 special tool. The notice shall include a description of the

1 special tool and name of the customer and processor.

2 (770 ILCS 105/6) (from Ch. 82, par. 356)

3 Sec. 6. Inspection. (A) Prior to the sale of any die, mold
4 or special tool in accordance with this Act, such item must be
5 available for inspection, upon request, by members of the
6 public during normal business hours for a period of at least 2
7 weeks prior to the sale.

8 (B) If the sale is for a sum greater than the amount of the
9 lien, the excess shall be paid to any prior lienholder and any
10 remainder to the customer and the processor.

11 (C) A sale shall not be made or a possession shall not be
12 obtained under this Act if it would be in violation of any
13 right of a customer or a processor under federal patent,
14 bankruptcy, or copyright law.

15 (Source: P.A. 85-381.)